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ABSTRACT

The Minnesota State Department of Education has analyzed the issues related to pupil records, defined these issues, and established guidelines that will assist school boards and administrators in the formulation of school policies regarding pupil records. This publication consciously adjudicates between the various potentially conflicting interests of parents, students, administrators, teachers, counselors, employers, and researchers. Court cases are few, but the trend toward litigation is increasing. Because law undergoes change and interpretation, this publication should serve only as a guide rather than as a definitive statement of the law on pupil records. (Author/DW)

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Guidelines for the Collection Maintenance and Release of Pupil Records

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Minnesota Dept. of Education
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INTRODUCTION

The Minnesota Department of Education has analyzed the issues related to pupil records. *Guidelines for the Collection, Maintenance and Release of Pupil Records* define these issues and establish guidelines that will assist school boards and administrators in the formulation of school policies regarding pupil records. This publication attempts to consciously adjudicate among the various potentially conflicting interests concerning pupil records on the part of parents, students, administrators, teachers, counselors, employers and researchers.

Court cases focusing on the issue of pupil records are few in number. Most have been litigated in those states having student record statutes. But an analysis of the trend of cases suggests that litigation is increasing across the country. This trend should sound a warning to school boards and school administrators to get their record house in order.

It should be noted that law undergoes constant interpretation and, therefore, change. The rights and privileges granted under law depend upon the circumstances in each case. Consequently, this publication should be looked upon only as a guide. It should not be perceived as a definitive statement of the law on pupil records. It is advisable to seek help from legal counsel when one is unsure as to whether certain rights are being violated.

ISSUES RELATED TO PUPIL RECORDS

It seems that present practices of school officials relating to pupil records threaten the balance between the right to privacy and the public's right to know. Specifically, one may refer to the following issues:

1. *Consent Not Given for Subsequent Release of Information.* Where consent is obtained for the collection of data for one purpose, the same information may be used for subsequent purposes. For example, data originally collected by a counselor for the purpose of guidance may be released, without consent of pupils or parents, to a university or employer for use in selecting students.

2. *School Records Are Not Released to Pupils and Parents.* Parental and pupil access to school records typically is limited to the attendance and achievement record, including standardized achievement scores. Psychological data, including personality test scores and their interpretation, however, are often withheld from both parents and pupils.

3. *Inaccurate Information in Pupil Records.* The secrecy with which school records usually are maintained makes it difficult to determine the accuracy of such data. Procedures permitting parents or pupils to challenge inaccurate information often do not exist. An unsubstantiated note of misconduct, therefore, may be entered in the school record.

4. *Outdated Information.* Procedures for the destruction of outdated or no longer useful information do not exist in many school districts. Thus, the cumulative nature of most record keeping systems may make a fresh start difficult or impossible for some pupils.

5. *Unauthorized Release to School Personnel.* Few provisions are made to protect school records from examination by unauthorized school personnel. Thus, for example, a teacher may usually obtain access to a pupil's record file, whether or not the pupil is a student of his, and without demonstrating a legitimate need for the examination.

6. *Unauthorized Access by Non-School Personnel.* Access to pupil records by non-school personnel is often handled on an ad hoc basis. Formal policies governing access by law enforcement officials, potential employers, colleges, researchers, and others do not exist in many school districts.

One must balance the need for relevant information about a pupil and his right to privacy in resolving the previously mentioned issues. The following guidelines, therefore, will assist school authorities in developing meaningful record keeping policies.

HOW TO CATEGORIZE PUPIL RECORDS

Student data collected and stored by school officials may vary from fact to conjecture. Different types of information, therefore, require different kinds of categories. Categories should be based on the nature of the information and its importance in the educational system. Such data about pupils that are collected and stored by school personnel should be separated into one of the following categories:

Administrative Records. This classification includes official administrative records that constitute the minimum personal data necessary for operating the educational system. It may include:

1. birth date
2. parents' or guardians' names and addresses
3. grades and academic work completed
4. attendance data
5. sex
6. achievement test scores

Supplementary Records. This classification includes verified information of clear importance in understanding the pupil's personality development. It includes:

1. scores on standardized intelligence, aptitude, interest or personality tests
2. extra-curricular activities
3. health data
4. home environment information
5. interview reports
6. systematically gathered teacher or counselor evaluations and observations
7. reports, verified by two or more persons, of serious or recurrent behavior patterns

This information is primarily for internal use by the members of the professional staff in promoting the welfare of students.

Tentative Records. This classification includes potentially useful information that is not clearly verified or

not presently needed. It includes:

1. comments from teachers, counselors or administrators concerning academic performance or personality assessment
2. reports from outside agencies
3. reports of parent-teacher or parent-counselor conferences
4. work samples, uninterpreted psychological test data, and unverified reports of behavior

Professional Records. This classification includes: 1) anecdotal notes, 2) clinical diagnoses, and 3) other memory aids maintained by professionals (e.g., counselors or psychologists). Such data may usually be found in his own file.

HOW TO MAINTAIN PUPIL RECORDS

Administrative Records. Each school should maintain an official "administrative record" for each enrolled student. This record should be permanent and maintained by the school for an indefinite period.

Supplementary Records. Such information should be recorded in a separate portion of the official record or on a separate form to be inserted in the student's "administrative record." These records shall be destroyed within one year after the pupil leaves, transfers or graduates from the school system (see M.S. 138.161 to M.S. 138.22 regarding procedure for destruction of records). It should be noted that great care must be exercised to ensure the accuracy of information contained in this category. For example, reported behavior patterns and specific incidents must be clearly verified by two or more persons and be unambiguous before they become part of the "supplementary record."

Tentative Records. These records should be destroyed when they are no longer useful. "Tentative records" may be placed in the "supplementary category," however, if the continuing usefulness of the data is demonstrated and its validity and reliability verified.

Professional Records. These records should be considered the personal property of the professional. The maintenance of such records should be determined by the ethics of his profession.

RELEASE OF PUPIL RECORDS

There is a conflict between what constitutes a public record open for general inspection and the right of privacy. Much litigation and legal discussion about this controversy is gaining momentum. The legal analysis emerging is that the student's right to privacy must be balanced with the need for the school officials to collect certain personal information in order to carry out the school's educational function. It is argued that school officials who demonstrate a legitimate interest to know personal information can collect and use that information. On the other hand, prospective employers or credit lenders who do not exhibit a legitimate interest in such information cannot have access to the records. When one is unsure as to the legitimate interest, written consent should be given by the parent (See Appendix, Form D).

Administrative and Supplementary Records. No consent should be necessary for release of pupil records contained in the "administrative" or "supplementary" classifications to school officials, including teachers, counselors, and administrators who have a legitimate interest in examining the information. All school officials, however, should sign a written form which would be kept permanently on file indicating the legitimate interest for examining the records (See Appendix, Form C).

A school may release the information contained in a student's "administrative" or "supplementary" record to other school systems or colleges in which the student intends to enroll. Proper written consent should be obtained, of course. Here the pupil and his parents should be notified prior to the transfer, should have the right to receive a copy of the record, and should have an opportunity to challenge the accuracy of the data.

Furthermore, unless specific consent is obtained, a school should release only a *single* copy of a student's record to the agency, individual, or institution requesting the information. This single copy should be released with an attached provision specifying that the information it contains should not be duplicated or copied by the receiving agency, individual, or institution without written authorization from the student's parents or guardian or the pupil, if he is eighteen years old.

No other person, agency, or institution should have access to pupil records except under the following conditions:

1. When proper written consent has been obtained.
   a. This consent should be given by the pupil's parent or guardian (See Appendix, Form D). When a pupil reaches the age of 18, his consent—and not of his parents—must be obtained to release the information.
   b. The written consent must specify the records to be released and to whom they are to be released. Each request for consent must be made separately. No blanket permission for the release of information should be allowed.
2. When compelled by law, such as judicial subpoena.
3. When data for outside research purposes are released in such a form that no specific pupil is identifiable.

Tentative and Professional Records. "Tentative" and "professional records" may not be released to any person other than the person who is responsible for the collection of the information, such as the school counselor or psychologist.

PUPIL AND PARENT EXAMINATION OF RECORDS

One issue that should not be overlooked is that of the accuracy of the data itself. A school has no legitimate educational interest in using inaccurate data. To help assure that the information is accurate, the pupil and his parents should have the right to challenge certain records in order to determine its accuracy. Furthermore, each school should create a review panel composed of impartial professionals to hear challenges to information contained in a student's record. The burden of proof as to the accuracy of the record should be on the school district.

Administrative Records. A student and his parent or guardian may examine and challenge the "administrative records," but the parent's or guardian's access is subject to the student's consent when the pupil has reached the age of 18.

Supplementary Records. A pupil and his parent or guardian may examine and challenge the "supplementary records." The parent's or guardian's access is subject to the pupil's consent when the student has reached the age of 18. A school official competent in interpreting records should be present to explain the meaning and implications of certain data that are examined.

Tentative and Professional Records. Pupils or parents should not have access to "tentative" and "professional records."

Objections. The student and his parent should have the right to make written objections to any information contained in the "administrative" and "supplementary records." Such objection should be signed by the pupil or parents and shall become part of the student's "supplementary" record. The review panel should review the objections made by pupils or parents and correct information that is inaccurate.

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SECURITY OF PUPIL RECORDS

The confidentiality of pupil records is facilitated by sound security procedures. It is recommended, therefore, that records should be kept under lock and key at all times except for periods of authorized use as described in these guidelines. The pupil's "administrative records," in addition, should be maintained in duplicate and in separate locations—one set preferably on microfilm and in a locked fire-proof file. Finally, the school system should have a central filing location for a school's "administrative records" which are abandoned.

INSERVICE PROGRAM ON STUDENT RECORDS

School administrators, it is argued, should provide dynamic leadership for all school staff, especially teachers, counselors, and secretaries, in the use and release of pupil records. It is recommended, therefore, that they should provide an inservice program that includes a comprehensive review of students' rights to privacy and appropriate procedures to guarantee that right in the public school.

RETROACTIVE RESEARCH

Often schools maintain records after a pupil leaves school. Such data may be used for retroactive research purposes. It is recognized that significant value may accrue to society as a result of such studies. But the difficulty in maintaining such data under secure conditions and the ultimate threat to individual privacy all militate against maintenance of such records. It is recommended, therefore, that school boards establish policies pertaining to consent, security, and access to pupil records for research purposes. Such policies should not preclude the use of pupil records when the anonymity of the individual is maintained and when the release is authorized by the records manager and the welfare of the pupil is not adversely affected.

RECORDS MANAGER

The principal should be the records manager for his school and should have the duty for maintaining and preserving the confidentiality of pupil records. He may, however, delegate the duties of records manager to another school official or panel.

The records manager is responsible for maintaining and preserving the confidentiality of pupil records. His duty should be to review the files and to delete inaccurate "supplementary" and "tentative" information. He

(Continued on next page)

FORM A
ROUTINE INFORMATION LETTER TO BE SENT HOME AT THE BEGINNING OF EACH SCHOOL YEAR OR AT TIME STUDENT ENROLLS DURING YEAR

Dear Parent,

In accordance with the recommendations of Superintendent of Schools and the Director of Measurement and Evaluation, the Board of Education has approved a city-wide testing program designed to provide information concerning the proficiency of all children in the district on standardized tests of academic achievement and aptitude.

The results of these tests provide a continuing record of each child's academic progress in comparison with national norms. They are also an invaluable aid t oyour child's teacher and counselor in diagnosing individual strengths and weaknesses in order to provide more effective individualized instruction. During the coming school year the following tests will be administered to your child as part of this program.

	Name of Test	Purpose
Example	Iowa Tests of Educational Development, Grade 10	Measurement of achievement in mathematics, English, basic science
	Terman-McNemar Test of Mental Ability	Measurement of verbal and mathematical aptitude

Your child's scores on these tests will be checked carefully and maintained in the school record as long as your child attends school in the system. Should your child transfer to another school system, you will be notified of the transfer of his or her permanent record to the new school system. No individual or agency outside of the school system will be permitted to inspect your child's school record without your written permission.

Should you wish to examine your child's record file, you may arrange to do so by making an appointment with the principal's office. [In addition, a routine report and interpretation of your child's scores on the above-mentioned tests will be included as part of the second term grade report.]

Sincerely,

.....
Superintendent of Schools

FORM B
SPECIAL REQUEST FOR PREMISSION TO COLLECT PERSONAL INFORMATION

In order to provide your child with more effective guidance and counseling services, your permission is requested for the collection of the following kinds of personal information from your child.

Type of Information or Test	Description and Purpose	Permission Granted	Permission Denied
Minnesota Multiphasic Personality Inventory		☐	☐
Kuder Preference Record	Example	☐	☐
Wrenn Study Inventory		☐	☐
Family Background Information		☐	☐

Because of the sensitive nature of this information, all test scores and related information will be treated with complete confidentiality. Only parents and authorized school personnel will be permitted access to this information without parental consent.

Please check the appropriate box signifying your approval or disapproval of this request, sign the form in the space provided below, and return in the enclosed envelope.

Parent's Signature _____ Date _____

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should also have the authority to deny or grant access to records according to the aforementioned guidelines.

STANDARDIZED TESTS

Standardized tests of academic achievement and aptitude provide a continuing record of each child's progress in comparison with national norms. They are also an invaluable aid to the teacher and counselor in diagnosing individual strengths and weaknesses in order to provide more effective individualized instruction.

It is recommended, therefore, that parents should be informed about the usefulness of standardized tests. A letter articulating what tests will be administered should be sent home at the beginning of each school year or at the time a student enrolls (See Appendix, Form A).

PERSONAL INFORMATION

Personal information, such as personality tests, can provide the pupil with more effective guidance and counseling services. Because of the sensitivity of such information, however, the parents should be allowed to signify their approval or disapproval of the collection of personal information.

It is recommended, therefore, that parents should be informed about the usefulness for the collection of personal information for their child. Further, a special request for permission to collect personal information should be obtained (See Appendix, Form B).

FORM C

RECORD OF INSPECTION OF PUPIL RECORDS

Name of Pupil: _____

Record Examined By	Date	Purpose

FORM D
REQUEST FOR PERMISSION TO RELEASE
SCHOOL RECORD TO THIRD PARTY

Dear Parent,

We have received a request from

_____
(name of requesting individual, agency, etc.)

for a copy of (access to) (name of pupil)'s school record.

Please indicate in the space below whether you are willing for us to comply with this request.

(Name of requesting party) may have a copy of (access to) the following parts of (name of pupil)'s record:

- ☐ Official Administrative Record (name, address, birthdate, grade level completed, grades, class standing, attendance record)
- ☐ Standardized Achievement Test Scores
- ☐ Intelligence and Aptitude Test Scores
- ☐ Personality and Interest Test Scores
- ☐ Teacher and Counsel or Observations and Ratings
- ☐ Record of Extracurricular Activities
- ☐ Family Background Data
- ☐ Other _____

Parent's Signature Date

TEACHER NOTES AND ANECDOTAL RECORDS

Teacher notes or anecdotal records do not enjoy immunity from a law suit for libel or slander. If placed in a pupil's record and exposed to public view, such notes may well be used as a basis for a defamatory action. It is recommended, therefore, that anecdotal records should be stripped to the bare facts and devoid of value judgments. Such words as "good" and "bad" should not be used because they could be loaded with slanderous connotations. Notes containing merely personal opinion may act as an invitation to a court suit.

RECORD INSPECTION

It is recommended that when a record is inspected, such inspection should be noted. Therefore, a written note of what record was examined, who examined it, and the purpose of the examination should be made (See Appendix, Form C).

CONCLUSION

School boards, administrators, counselors, teachers and other professional staff have an obligation to protect the pupil's right to privacy in the promoting of educational progress. Under Minnesota compulsory attendance law pupils may be considered captive clients. Students, therefore, should be protected from invasion of privacy by the school system itself and by other agencies eager to gather personal data for purposes unrelated to the welfare of the student.

It is recognized that many of the preceding guidelines will result in increased administrative as well as financial responsibilities. It is further acknowledged that it is impossible to anticipate all of the possible practical difficulties that might be created by these guidelines. The main point is that each school system must view these guidelines in light of practical realities it faces.

It should be noted, for example, that some of the guidelines merely recommend that school personnel deal with requests for data in a more consistent manner rather than on an ad hoc basis. This could reduce the workload of school officials. On the other hand, consent procedures, security measures and the periodic updating of pupil records may demand considerable effort on the part of school personnel. It is argued that such effort and additional expense will result in increased trust in the schools on the part of pupils and parents. In view of pressures to make schools more sentitive to the needs of the students, such an outcome appears highly desirable.